

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DIANA LOPEZ,

Plaintiff,

22-cv-5180 (JGK)

- against -

ORDER

DUTCH EXPRESS LLC, ET AL.,
Defendants.

JOHN G. KOELTL, District Judge:

The Court has received the plaintiff's notice of voluntary dismissal without prejudice, which was made pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i). See ECF No. 20. The parties previously represented that they had agreed to proceed in arbitration, ECF Nos. 16, 17, and the Court stayed this action "pending confirmation that the case will be dismissed in view of the parties' arbitration," ECF No. 19. It appears that the plaintiff now seeks to dismiss the case in view of the arbitration. Nonetheless, when a plaintiff files a notice of voluntary dismissal without prejudice under Rule 41(a)(1)(A)(i) in a Fair Labor Standards Act case like this one, a district court should inquire as to the existence of any FLSA settlement. See Samake v. Thunder Lube, Inc., 24 F.4th 804, 810-11 (2d Cir. 2022). If any FLSA settlement has been reached, the district court should "engage in a Cheeks [v. Freeport Pancake House, Inc.], 796 F.3d 199 (2d Cir. 2015)] fairness review." Samake, 24 F.4th at 811. "[I]n the absence of a settlement, the notice of dismissal should be so-ordered." Id.

The plaintiff's notice of voluntary dismissal does not indicate whether a settlement has been reached. Accordingly, by **January 9, 2023** the parties should advise the Court by letter whether they have reached a settlement in this action. If they have, the parties should attach the settlement agreement and explain why they believe the settlement is fair. The Court will reserve decision on whether to so-order the voluntary dismissal until it receives the parties' submission.

SO ORDERED.

**Dated: New York, New York
January 2, 2023**

/s/ John G. Koeltl

**John G. Koeltl
United States District Judge**